

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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JUN 14 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
California Public Utilities Commission and)	NSD File No. L-99-36
People of the State of California Petition)	
for Waiver to Implement a Technology-Specific)	
or Service-Specific Area Code)	
)	
Implementation of the Local)	CC Docket No. 96-98
Competition Provisions of the)	
Telecommunications Act of 1996)	

**COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) hereby files its comments on the petition filed by the California Public Utilities Commission and the People of the State of California (California) for waiver to implement a technology-specific or service-specific area code in the above-captioned proceeding.¹ USTA is the principal trade association of the local exchange carrier (LEC) industry. Its members provide over 95 percent of the exchange carrier-provided access lines in the United States.

In its petition, California requests the Commission to waive the provisions of Section 52.19(c)(3) of the Commission's rules² and grant it authority to implement a technology-specific or service-specific area code. In support of its request, California cites

¹Public Notice, DA 99-929, released May 14, 1999 (Public Notice).

²47 C.F.R. §52.19(c)(3).

the increased demand for numbers and the heightened number of competitive carriers providing service in California. Also, California states that the need for a technology-specific overlay may be increased after local number portability (LNP) is implemented and if a certain group of carriers does not have the capability to provide LNP. California states that it does "not wish to prejudge the issue of whether California should implement a technology-specific or service-specific area code."³ It seeks Commission permission to be able to consider the option should the need arise.

The Commission's rules provide that a waiver of its regulations may be granted "for good cause shown."⁴ Specific standards for a successful waiver require a showing that special circumstances warrant a deviation from the rules, and that such a deviation would serve the public interest.⁵ California has failed to satisfy the Commission's standards for waiver request, as demonstrated below. Consequently, its request should be denied on procedural grounds.

Furthermore, the Commission has not acted on petitions for reconsideration of its *Memorandum Opinion and Order and Order on Reconsideration* in Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717, NSD File No. L-97-42, and Implementation of the Local Competition Provisions of the

³Petition at 7.

⁴ 47 C.F.R. §1.3.

⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), cert. Denied, 409 U.S. 1027 (1972).

Telecommunications Act of 1996, CC Docket No. 96-98 (Pennsylvania Order).⁶ The comments contained herein take as an assumption that the Pennsylvania Order is in effect and that its elements will be sustained in the Commission's open proceeding.

In order to permit technology-specific or service-specific overlays, a waiver is required not only of Section 52.19(c)(3) of the rules, but also of the Commission's explicit policy against such overlays set forth in CC Docket No. 96-98 and the Pennsylvania Order.

USTA is concerned that California is asking for waiver of a specific Commission rule and policy set forth in two orders, and has not substantiated its claim. USTA is concerned that grant of blanket authority as requested could result in assignment of NPAs in ways that could actually increase the demand for NPAs.

USTA is not opposed to a review of the circumstances that apply to the conditions under which service-specific overlays may be permitted. The Commission has, in fact, initiated a rulemaking proceeding to reexamine whether it should reconsider its current prohibition against technology-specific or service-specific overlays.⁷ The Commission's inquiry must consider the details of the conditions that might apply to such assignments, projection of the effects of such assignments in regard to its effect on the national supply of NPAs, its possibly anticompetitive effects on the carriers to whose service the assignments would be specific, and the effects of such assignments on a national basis.

California has provided no information that, in USTA's opinion, even provides the

⁶13 FCC Rcd 19009 (1998).

⁷ *Numbering Resource Optimization*, CC Docket No. 99-200, Notice of Proposed Rulemaking, FCC 99-122, released June 2, 1999 (Numbering Resource Optimization

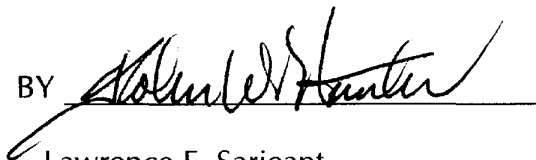
basis for opening a reasoned inquiry into the issue which California raises. Accordingly, USTA opposes the California request on the grounds that no facts have been provided that support the request to grant blanket waiver of Section 52.19(c)(3) of the rules and the policy set forth in two orders.

Now that the Commission has included the California petition in the Number Resource Optimization Notice, California will presumably have an opportunity to provide specific information on how technology-specific overlays could alleviate current conditions in California. Also, California could provide information that would support its assertion that service specific overlays could reduce the need to assign additional NPA resources, compared to the demand that would apply in the absence of service specific overlays. Absent such a showing, USTA recommends that the California petition should be denied.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

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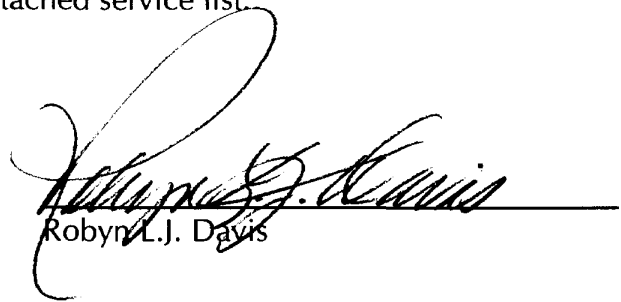
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Notice). Specifically included in that proceeding is the California Petition.

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on June 14, 1999, Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.


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